

1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3 REBECCA TERRY,

4 Plaintiff,

5 vs.

Case No. 17-CV-01112

6 COUNTY OF MILWAUKEE, et al.,

7 Defendants.

10 Deposition of DECORIE L. SMITH

11 Wednesday, August 8th, 2018

12 10:05 a.m.

13 at

14 LEIB KNOTT GAYNOR LLC
15 219 North Milwaukee Street, Suite 710
16 Milwaukee, Wisconsin

21 Reported by Elaine A. Thies, RPR

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| | | Page 10 | | Page 12 |
| 1 | A | No, ma'am. | 1 | entrance of the Special Medical Unit. From cell one |
| 2 | Q | Okay. Do you know someone named Morgan Bevenue? | 2 | I look inside the cell, check for the rising of the |
| 3 | A | Not to my recollection so I would have to say no. | 3 | chest. Once I see that I move onto cell two. And |
| 4 | Q | Okay. Turning your attention to what we'll mark as | 4 | that process is repeated until I get to cell -- to |
| 5 | | Exhibit 1 which is the log that your counsel handed | 5 | the last cell. Then I go back to the work desk and I |
| 6 | | me. It's marked MKE County 999. | 6 | put in the jail log that the inspection is completed. |
| 7 | | (Exhibit 1 marked for identification.) | 7 | And on how many occasions throughout your career |
| 8 | BY MS. KLEINHAUS: | | 8 | have you done an inspection like that? |
| 9 | Q | Take a look at this. Are you familiar with | 9 | Every time I do an inspection. |
| 10 | | Exhibit 1? | 10 | Okay. So in a typical third -- A third shift is an |
| 11 | A | Yes, ma'am. | 11 | eight-hour shift; right? |
| 12 | Q | What is it? | 12 | A Yes. |
| 13 | A | It's a copy of our jail log. | 13 | Q In an eight-hour shift you're expected to do |
| 14 | Q | And is that for March -- What date is that for? | 14 | inspection every 30 minutes; right? |
| 15 | A | It's for March 9th and then going to March 10th. | 15 | A Sixteen inspections. |
| 16 | Q | Okay. The correctional officers using the log | 16 | Q So 16 inspections every shift? |
| 17 | | enter information using their initials; correct? | 17 | A (Witness nodded head.) |
| 18 | A | Yes. | 18 | Q And you've been working there for nine years? |
| 19 | Q | Is there any spot on the log where you see your | 19 | A Yes, ma'am. |
| 20 | | initials? | 20 | Q Okay. Is it your testimony that you have a |
| 21 | A | Yes. | 21 | specific recollection of the one that happened on |
| 22 | Q | And where is that? | 22 | March 10th of 2014? |
| 23 | A | At 3:27. | 23 | A In regards to this inspection I would have to say |
| 24 | Q | Okay. And can you read for the record what it says | 24 | yes. |
| 25 | | your activity was at 3:27. | 25 | Q What about -- Am I correct that you walked around |
| | | Page 11 | | Page 13 |
| 1 | A | Scheduled inspection completed. No inmates in | 1 | each cell and you didn't see anything wrong with |
| 2 | | obvious physical duress. | 2 | anybody; right? |
| 3 | Q | And what's the location where you were working? | 3 | A If I didn't -- For me if I didn't put anything in the |
| 4 | A | Special Medical Unit. | 4 | jail log, then I didn't see anything to -- |
| 5 | Q | Okay. You can put Exhibit 1 to the side. Or, I'm | 5 | Q Okay. What causes you to have an independent |
| 6 | | sorry, actually is there any other spot on | 6 | recollection, and by that I mean you're able to |
| 7 | | Exhibit 1 that you see your initials? | 7 | remember it -- you're not assuming something about |
| 8 | A | No, ma'am. | 8 | what you did; you're able to remember it |
| 9 | Q | Okay. Do you know -- Do you have an independent | 9 | yourself -- what causes you to remember this |
| 10 | | recollection of doing an inspection on March 10th | 10 | inspection at 3:27 a.m. on March 10th? |
| 11 | | at 3:27 a.m.? | 11 | A The cause is again for me I'm a very meticulous |
| 12 | A | Yes. | 12 | individual so when I do anything I make sure that I |
| 13 | Q | You do have an independent recollection of that in | 13 | dot all my i's and cross all my t's, so for me if I |
| 14 | | your mind? | 14 | didn't put anything in the jail log, they didn't call |
| 15 | A | As far as doing the inspection? | 15 | for assistance, they didn't advise my supervisors, |
| 16 | Q | Yes. | 16 | then I have the ability to go off of what I put in |
| 17 | A | Yes. | 17 | the system, so for -- to answer, if it wasn't written |
| 18 | Q | Okay. What do you remember about it? | 18 | down by me it didn't happen. |
| 19 | A | I remember it being very quiet and not having the | 19 | Q Okay. So do you have a memory of doing that |
| 20 | | need to put any additional information in the jail | 20 | inspection, or is your testimony based on |
| 21 | | log or in my daybook. | 21 | Exhibit 1? |
| 22 | Q | Tell me the steps you took to complete the | 22 | A It would be based off of the Exhibit 1. |
| 23 | | inspection. | 23 | Q Okay. How was it that you were the one in the SMU |
| 24 | A | You physically get up from the workstation. I will | 24 | at 3:27 a.m., do you know? |
| 25 | | make a right, head towards cell one which is by the | 25 | A At that -- On that particular night I was assigned to |

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| | | Page 18 | | Page 20 | |
| 1 | A | I would have to say no because I was the break officer. | 1 | A | Physical distress per our training would be someone who has an inability to function properly, meaning if they couldn't walk, count breathe, was unable to talk, respond. |
| 2 | Q | And when I say lights above the cells, I mean the ones that come on when somebody's asking for help. | 2 | Q | And during third shift would you check their ability to respond? |
| 3 | A | The call button light. | 3 | A | Yes. |
| 4 | Q | The call button light, right. | 4 | | MS. KUGLER: Objection, form. |
| 5 | | Do you have any independent recollection, meaning a memory in your mind, of whether a call button light was on above Ms. Terry's cell? | 5 | BY MS. KLEINHAUS: | |
| 6 | A | No, ma'am. | 6 | Q | Okay. How would you check for that? |
| 7 | Q | Other than this inspection that you believe happened because of Exhibit 1, did you have any other interaction with Ms. Terry that you know of? | 7 | A | If you're the officer who is assigned to a spot when you do your initial inspection, I was trained that you get everyone's attention so you gently knock on the door, ask them how they're doing, and that's the way that you get their attention as well as collect your formal count. |
| 8 | A | No, ma'am. | 8 | Q | Okay. If someone is assigned to the pod in the course of your shift, is there anything you're trained to do to evaluate their ability to respond? |
| 9 | Q | Okay. Did you ever have any discussion with anybody at Milwaukee County Jail about the fact that Ms. Terry gave birth in the jail cell by herself? | 9 | A | For the jail the system has been set up where if someone feels that they're in -- having a medical emergency, there are call buttons. You have officers assigned to areas so that communication can be reached. |
| 10 | A | No, ma'am. | 10 | Q | My question is a little bit different. Were you |
| 11 | Q | Were you ever debriefed or interviewed by anyone from Milwaukee County about the evening of March 9th and 10th and Ms. Terry's condition? | 11 | | |
| 12 | A | No, ma'am. | 12 | | |
| 13 | | MS. KUGLER: Objection, form. | 13 | | |
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| 1 | BY MS. KLEINHAUS: | | 1 | given any training on how to evaluate someone's ability to respond if they're not there at the time of the initial inspection? | |
| 2 | Q | When was the first time that you learned that Ms. Terry had given birth in the SMU? | 2 | A | That falls under the general training. I mean it's a generalized ability to observe individuals, so if you're assigned or it's your task to monitor individuals, that that falls under the scope of your training. |
| 3 | A | I cannot recall. | 3 | Q | Okay. Other than talking to people during the initial inspection on your shift, is there anything else you were trained to do on third shift to check someone's ability to respond? |
| 4 | Q | Have you ever received any training from Armor Corporation? | 4 | A | Continuous inspections done every 30 minutes. |
| 5 | A | Pertaining to what? | 5 | Q | How does that check their ability to respond? |
| 6 | Q | Anything. | 6 | A | By observing them. So if I walk past your cell, I'm looking in your cell to see if you have the ability to even respond by seeing if your chest is rising, by checking to see if you're breathing. |
| 7 | A | No, ma'am. | 7 | Q | Have you ever logged a detainee as being in obvious physical distress? |
| 8 | Q | Have you ever received any training from Milwaukee County about pregnant inmates? | 8 | A | Yes. |
| 9 | A | No, ma'am. | 9 | Q | Okay. On how many occasions have you done that? |
| 10 | Q | Have you ever worked as a sheriff's deputy? | 10 | A | Numerous. I wouldn't be able to give you an exact number. |
| 11 | A | No, ma'am. | 11 | Q | Okay. And on those numerous occasions were those |
| 12 | Q | Have you ever been present for a hospital watch at the hospital? | 12 | | |
| 13 | A | No, ma'am. | 13 | | |
| 14 | Q | MS. KLEINHAUS: Okay. I think I'm almost through. I just want to take a quick break; okay? | 14 | | |
| 15 | A | THE WITNESS: Okay. | 15 | | |
| 16 | Q | (Recess taken from 10:26 until 10:31 a.m.) | 16 | | |
| 17 | A | BY MS. KLEINHAUS: | 17 | | |
| 18 | Q | Can you tell me what you were told counts as physical distress or how to identify that someone's in physical distress? | 18 | | |
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